# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 16429 of 2007

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE RAVI R.TRIPATHI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**ISHWARLAL RAMCHANDRA JESWANI**
**Versus**
**STATE OF GUJARAT AND ANOTHER**

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**Appearance :**
MR PJ VYAS for the Petitioner
MR SATYAM CHHAYS, ASSISTANT GOVERNMENT PLEADER for the Respondents

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**CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI**

**Date : 18/07/2007**

**ORAL JUDGMENT**

1. Heard Mr.PJ.Vyas, learned advocate for the petitioner.

2. Mr.Vyas, learned advocate for the petitioner contended that

the petitioner was holding the land notionally, as he was getting it cultivated through somebody. For that purpose, he invited attention of the Court to 'Kararkhat' dated 'samvat 2034 vaishakh sudi 4'.

The learned advocate also invited attention of the Court to page No.20 to the petition – a part of the order passed by the Collector, Bhavnagar, wherein the Collector has referred to a personal visit of the Deputy Collector, Palitana on 30.10.1996 to village Beda, Tal.: Mahuva, Dist.: Bhavnagar. In the said visit, the Deputy Collector inquired as to whether ancestor of Ishwarlal Ramchandra were residing in the village. A panchnama was drawn in presence of the panchas at village Beda and as is recorded in the panchnama, since the village Beda was inhabitated, no Sindhi family or a person belonging to Sindhi community had ever resided in village Beda. It is also recorded in the panchnama that a family in the name of Manekchand Kothari was residing in the village about 70 to 80 years before, but the persons do not know as to whether they were cultivating the land or not.

The Collector has also recorded that, 'the Deputy Collector, Palitana had recorded a statement of Talati-cum-Mantri of that village and ultimately came to the conclusion that, taking into consideration the Rojkam drawn by the Deputy Collector, no Sindhi family had ever resided in village Beda since the village was inhabitated'.

The Collector has recorded in terms that in the statement

given by Ishwar Ramchandra Jeswani – the petitioner herein, he has stated that he is residing at Bhavnagar for last 30 years and mutation entry No.438 is dated 01.10.1981, which is granted on 14.11.1981, i.e. about 17 years prior, the petitioner was residing at Bhavnagar. From the aforesaid material placed before the Collector, he has concluded that the name of the petitioner was entered in the revenue record by tampering the same in illegal manner. Under Rule 108(6) of the Land Revenue Rules, 1972, the entry is required to be taken into revision within a period of one year, which is settled by the decisions of the High Court of Gujarat. The Collector has then recorded that when an entry is non-est or void ab-initio, and when an entry is made by tampering the Government record, the same can be taken into consideration for quashing the same at any time and that will not be barred by limitation.

3. Mr.Satyam Chhaya, learned Assistant Government Pleader for the respondents invited attention of the Court to the relevant part of the order passed by the Joint Secretary (Appeal) dated 22.11.2006 and also relevant part of the order of the Collector.

4. In view of the aforesaid discussion, the Court finds no substance in this petition and hence, it is dismissed. Rule is discharged with no order as to costs. Interim relief is vacated.

**(RAVI R.TRIPATHI, J.)**

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